

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

LISA MARIE MONTGOMERY,)	
)	
Petitioner,)	
)	
v.)	Case No. 2:21-cv-00020-JPH-DLP
)	
WARDEN OF USP TERRE HAUTE, IN.,)	
<i>et al.</i> ,)	
)	
Respondents.)	

**EXHIBIT F - RULE 1006 SUMMARY
EXCERPTS OF JAIL CALLS
FROM LISA MONTGOMERY**

August 6, 2020

Montgomery and her daughter Kayla discuss the Supreme Court's denial of Montgomery's petition for rehearing¹ and the potential consequences of November 2020 general election on the *death penalty*:

MS. DAVIS: I love you too. All right. Keep your head up. All right?

MS. MONTGOMERY: I am. I am. You tell [your siblings] I'm not giving up yet. Okay?

MS. DAVIS: Okay.

MS. MONTGOMERY: I'll keep fighting.

MS. DAVIS: Okay.

MS. MONTGOMERY: So, there's still things we can do, I think. And, you know, there's clemency so we're working on that too.

MS. DAVIS: Yeah.

MS. MONTGOMERY: And if Biden becomes president, he said -- you heard what he said, he'll abolish the death penalty, so.

MS. DAVIS: Oh, Biden. Oh.

Tr. 20:19 – 21:6 (Aug. 6, 2020).

¹ *Montgomery v. United States*, 141 S. Ct. 199 (Aug. 3, 2020).

August 13, 2020

Montgomery and her daughter Kayla discuss the \$100 special assessment she was required to pay as part of her criminal judgment, compared to another female inmate who also received a capital sentence:

MS. MONTGOMERY: You think [your sister will] have a fine to pay and probation?

MS. DAVIS: Yeah. She'll be on probation. I mean she's obviously -- she's going to have a crap ton of court fees to pay.

MS. MONTGOMERY: Oh, shit, yeah. She's probably going to be paying on them forever.

MS. DAVIS: Uh-huh.

MS. MONTGOMERY: You know I had to pay court fees.

MS. DAVIS: Do what?

MS. MONTGOMERY: I had to pay court fees.

MS. DAVIS: You had to pay court fees?

MS. MONTGOMERY: Yep.

MS. DAVIS: Oh, with all your money?

MS. MONTGOMERY: Yeah.

MS. DAVIS: All that money you make?

MS. MONTGOMERY: Yeah.

MS. DAVIS: How do you --

MS. MONTGOMERY: It's \$100. Listen to this. So, it's a \$100 per charge. I had one charge.

MS. DAVIS: Oh, yeah. Yeah. Big money.

MS. MONTGOMERY: Yeah. There's people that have five, six, seven charges.

MS. DAVIS: Oh.

MS. MONTGOMERY: I just had one. One big one. But yeah.

MS. DAVIS: Uh-huh.

MS. MONTGOMERY: And so I paid that back the first year I was here. So, what happens is if you, and if you get a fine, well, I didn't get a fine because obviously it was my sentence. I wasn't going to get a fine, although Angie² did.

MS. DAVIS: Right.

MS. MONTGOMERY: They got her because her family sent her like \$400 and \$500 a month.

Tr. 9:24 - 11:6 (Aug. 13, 2020).

² Angela "Angie" Jane Johnson is another convicted murderer and Carswell inmate who received a capital sentence, though Angie's sentence was later reduced to life. *See also Johnson v. United States*, 860 F. Supp. 2d 663 (N.D. Iowa 2012) (granting Angela Jane Johnson relief from a capital sentence under § 2255).

Montgomery and her daughter Kayla discuss her criminal proceedings and the legal arguments her attorneys have made, including the firing of one of her former attorneys, Judy Clarke, and the Supreme Court's denial of Montgomery's petition for certiorari and petition for rehearing:

MS. MONTGOMERY: Well, I keep hoping my attorneys were good at what they did, but I've lost everything. So, I don't know.

MS. DAVIS: Yeah. I don't know. I think they're good. I just think they're fighting a hard battle.

MS. MONTGOMERY: Yeah.

MS. DAVIS: I think if you had had different attorneys to start with it would have gone differently.

MS. MONTGOMERY: It would been a different outcome. Right. Right. If had gotten Judy [Clarke] to begin with.

MS. DAVIS: Yes. I liked her.

MS. MONTGOMERY: But, you know, they're -- yeah. They're saying that it was okay that the judge fired her and replaced her with somebody else.

MS. DAVIS: Which is crazy.

MS. MONTGOMERY: Right. Which everybody that hears that says that can't happen. And it did.

MS. DAVIS: Yeah.

MS. MONTGOMERY: And then, of course, the Supreme Court is saying that it was okay. Right.

MS. DAVIS: Uh-huh.

MS. MONTGOMERY: Because that's what we appealed on.

MS. DAVIS: Yeah.

MS. MONTGOMERY: But yet another court, a lower court in Philadelphia said, no, the guy had a right to his chosen attorney even on the day of trial, even though it was going to delay his trial by three hours. The judge had said, no, he couldn't have his own attorney.

MS. DAVIS: Hum.

MS. MONTGOMERY: So, he won his because he, you know, what he did was he had a court-appointed attorney. He hired an attorney that came in the day of trial and said I need a three-hour delay and I'll be here and I can take over. And the judge said absolutely not. Well, he won his saying that he had a right to have his own attorney.

MS. DAVIS: Yeah.

MS. MONTGOMERY: So, why didn't I have a right to my own attorney, the attorney of my choice? Why didn't I have a right? Well, it wasn't cost --

MS. DAVIS: Because it was court-appointed.

MS. MONTGOMERY: Because she was court-appointed?

MS. DAVIS: I would assume.

MS. MONTGOMERY: Yeah. How does that work, you know?

MS. DAVIS: Yeah. Well, I would assume because -- you're okay. Because it's court-appointed that, you know, the court gets to choose that, unfortunately.

MS. MONTGOMERY: Not necessarily. But, you know, I guess --

MS. DAVIS: See, I don't know enough about it.

MS. MONTGOMERY: She wasn't going to cost the court anything though. She didn't -- she wasn't being paid by the court. Like court-appointed would mean the court was paying her. She was doing it for free.

MS. DAVIS: Oh, she's *pro bono*?

MS. MONTGOMERY: Yes.

MS. DAVIS: Gotcha.

MS. MONTGOMERY: Yeah. Yeah.

MS. DAVIS: Yeah. That's crazy.

MS. MONTGOMERY: So, yeah. Now, you see why we've been like really fighting this, but --

MS. DAVIS: Uh-huh.

MS. MONTGOMERY: Now, I'm sure they got -- I talked to Amy [Harwell] the other day and she, you know, they said they've got more things that they're going to try.

MS. DAVIS: Uh-huh.

MS. MONTGOMERY: But she wants to wait for a legal call.

MS. DAVIS: Yeah.

MS. DAVIS: Okay. I was going to say I could always message her. No. She kind of told me a little bit of what they have in mind. But she said they're not sure what approach they're going to take yet. That's why I can't really say a whole lot, but.

MS. MONTGOMERY: Right. Right.

MS. DAVIS: So.

MS. MONTGOMERY: Yeah. We can't talk about it on the phone. But as long as you kind of know what's going on, that's good.

MS. DAVIS: Yes.

MS. MONTGOMERY: And I asked her to call (inaudible).

MS. DAVIS: I do. I talked to her for a good like 30 minutes the other day.

MS. MONTGOMERY: Okay.

MS. DAVIS: Just so I had kind of an idea.

MS. MONTGOMERY: You probably know more than I know.

MS. DAVIS: Sadly. Sadly. I probably do. Kind of.

MS. MONTGOMERY: It's tough to say though. They know that you're important to me and that I want you to be fully aware of what's going on. You and Kevin [Montgomery].

MS. DAVIS: Yeah.

MS. MONTGOMERY: So. Because I know you'll communicate with your brother and your sisters. Now, CJ said he took some --

MS. DAVIS: Yes. And I did.

Tr. 14:2 – 18:3 (Aug. 13, 2020).

August 27, 2020

Montgomery discusses the probability that she will be executed with her father and his partner, Jan:

MS. MONTGOMERY: I was sad yesterday. They had another execution in the federal system.

JAN: Damn. Damn.

MS. MONTGOMERY: And then they've got another one tomorrow.

JAN: Oh, damn.

MS. MONTGOMERY: Yeah.

JAN: We've got to hurry up and get Biden in. He said right away he's going to stop that.

MS. MONTGOMERY: Yes.

JAN: I just--

MS. MONTGOMERY: They have more scheduled in. Okay. Because I don't know if Dad told you that there was 12 ahead of me, now there's 11 because the one that got killed yesterday.

JAN: Right.

MS. MONTGOMERY: And so after tomorrow there will be ten ahead of me.

JAN: Well, remember you're a female.

MS. MONTGOMERY: I know. That's what everybody tells me.

JAN: (Inaudible) and sick, yeah.

MS. MONTGOMERY: Hopefully he just -- hopefully he doesn't notice me.

JAN: Yeah. Well, you're female and I think that's in your favor. All right. He is not happy with us at all.

MS. MONTGOMERY: Okay.

JAN: I don't blame him. He loves you.

MS. MONTGOMERY: I know he does.

JAN: All right, honey. Take care.

MS. MONTGOMERY: I love you too. Bye.

JAN: Bye-bye.

MR. PATTERSON: Okay. What's up?

MS. MONTGOMERY: Nothing. I was just telling her that they executed a guy yesterday and they're doing another one tomorrow.

MR. PATTERSON: Oh, really.

MS. MONTGOMERY: Yeah.

MR. PATTERSON: Oh.

MS. MONTGOMERY: And two more in a couple weeks, so.

MR. PATTERSON: That's too bad.

MS. MONTGOMERY: That put me -- I don't know if you know where I'm at. There was 12 ahead of me, now there's 11, tomorrow there will be 10.

MR. PATTERSON: Okay.

MS. MONTGOMERY: So,

MR. PATTERSON: Well.

MS. MONTGOMERY: Hopefully they don't two a month. If they do two a month, then I'm screwed, but hopefully they don't.

MR. PATTERSON: Well, yeah.

MS. MONTGOMERY: It still would -- even then it wouldn't be till January. But I'm sure Biden is going to win. Don't you think he's going to win? The polls here in Texas. He's leading here in Texas.

MR. PATTERSON: I know, but [Hillary Clinton] was too.

MS. MONTGOMERY: I know.

Tr. 5:13–7:17 (Aug. 27, 2020).

September 1, 2020

Montgomery discusses with her father her interest “on a personal level” in a book about John Wilkes Booth, based on the hanging of Mary Surratt:

MS. MONTGOMERY: So, one of the reasons I called was I got the books today in the mail.

MR. PATTERSON: Oh, good.

MS. MONTGOMERY: From Daedalus.

MR. PATTERSON: Uh-huh.

MS. MONTGOMERY: *The Storm*, and John Wilkes Booth and the pictures of Stalin versus Hitler, and the one on World War I. They all look good.

MR. PATTERSON: Yeah.

MS. MONTGOMERY: We were locked in all afternoon and he brought them to my room, so I was like, oh, this is cool.

MR. PATTERSON: Good. I'm glad you like them.

MS. MONTGOMERY: Yeah. Yeah.

MR. PATTERSON: So, did you like them? You don't have to. If you don't like them, please tell me.

MS. MONTGOMERY: I do like them. I glanced through the John Wilkes Booth because I'm interested in that on a personal level because –

MR. PATTERSON: Uh-huh.

MS. MONTGOMERY: -- didn't they hang Mary Surratt because she had a boarding house where he was staying at?

MR. PATTERSON: Yeah.

MS. MONTGOMERY: Yes. And she was like the first federal woman –

MR. PATTERSON: Yeah.

MS. MONTGOMERY: -- to be killed, to get the death penalty?

MR. PATTERSON: Yeah.

MS. MONTGOMERY: Yeah.

MR. PATTERSON: Yeah. And they did it, oh, you know, they did it in a square so everybody could see it.

MS. MONTGOMERY: Right.

MR. PATTERSON: I think they did four of them at the same time and she was one of them.

MS. MONTGOMERY: Yeah. That's what I thought. Well, I'll find out for sure reading it. It seems like I read something about it a long time ago but I don't –

MR. PATTERSON: Yeah.

MS. MONTGOMERY: I don't really remember how that worked.

MR. PATTERSON: Yeah. Well, I know they hung – I know they hung her. I know that for a fact.

MS. MONTGOMERY: Yeah. I knew they hung her. This guy wrote to me and she was – okay. His ancestor was the preacher who went to give her final rights or whatever before she died.

MR. PATTERSON: Oh, yeah. Yeah.

MS. MONTGOMERY: And so it had been passed down in their – and also the bed – the bed that John Wilkes Booth slept on is in his family.

MR. PATTERSON: Yeah.

MS. MONTGOMERY: So.

MR. PATTERSON: Well, he was actually a fairly famous person. That's why he got in there originally.

MS. MONTGOMERY: Yeah. Right. And he knew his way around the theater.

Tr. 5:13 – 7:17 (Sept. 1, 2020).

November 2, 2020

Montgomery and her daughter Kayla discuss a biblical passage concerning prisoners in the shadow of death:

MS. MONTGOMERY: . . . Oh, wait a minute. So listen to this. So, I had a Bible, right?

MS. DAVIS: Yeah.

MS. MONTGOMERY: And I opened it up the other night just to wherever it opened to and it opened to Psalm 107. So, write this down, 107. And it's not the very beginning of it but maybe a couple of little paragraphs into it.

MS. DAVIS: Yeah.

MS. MONTGOMERY: And it starts talking about prisoners in the shadow of death and how God will free you.

MS. DAVIS: Yeah.

MS. MONTGOMERY: Burst your bonds.

MS. DAVIS: Wow.

MS. MONTGOMERY: Yeah. Isn't that like -- I was like this is so appropriate.

Tr. 15:22-16:11 (Nov. 2, 2020).

November 10, 2020

Montgomery and her father discuss her attorneys contracting COVID-19:

MS. MONTGOMERY: Have you heard that my attorneys are sick?

MR. PATTERSON: Are they?

MS. MONTGOMERY: Yes.

MR. PATTERSON: I did not.

MS. MONTGOMERY: They had to cancel their visit for two weeks.

MR. PATTERSON: Oh, my goodness.

MS. MONTGOMERY: They got sick coming down here.

MR. PATTERSON: Well, did you get to sit with them?

MS. MONTGOMERY: No. It was no contact, but still.

MR. PATTERSON: Okay. So, was it the same way we meet you?

MS. MONTGOMERY: Yeah.

MR. PATTERSON: Oh, you know --

MS. MONTGOMERY: It was probably through the airlines or something is probably where they got it.

MR. PATTERSON: Yeah.

MS. MONTGOMERY: Or a rental car or whatever. So, that's why we're not worried about here right now.

Tr. 4:3-22 (Nov. 10, 2020).

Montgomery and her father discuss her ex-husband's recent arrest:

MS. MONTGOMERY: Did you hear what happened to their dad? Did you hear what happened to their dad?

MR. PATTERSON: I heard. Is he out now or is he still in jail?

MS. MONTGOMERY: Oh, no. He's on a \$100,000 bail.

MR. PATTERSON: Well, I know that. I didn't think he could get it, so.

MS. MONTGOMERY: Yeah. They're not bailing him out.

MR. PATTERSON: Yeah. She -- Kayla sent me the arrest thing right after he got arrested.

MS. MONTGOMERY: Karma.

Tr. 7:25-8:10 (Nov. 10, 2020).

Montgomery and her father discuss the implausibility of her ex-husband's criminal defense and jokes about how she once again has the upper hand over her ex-spouse:

MS. MONTGOMERY: Carl is saying he's the victim in this. He was enticed.

MR. PATTERSON: Yeah.

MS. MONTGOMERY: A 14-year-old girl. There's no way.

MR. PATTERSON: Yeah.

MS. MONTGOMERY: And they got all kinds of evidence against him, so he's going down for a long time. I think it's -- I think it's karma. See what he gets for being so nasty to me.³

Montgomery married Carl Boman, her step-brother, when she turned eighteen in August 1986. She had her first child in January 1987, and three more in the three years that followed. In 1990, Montgomery underwent the sterilization procedure described above. The procedure was successful, and a pretrial hysterosalpingogram confirmed that the sterilization rendered Montgomery unable to become pregnant. Montgomery claimed that her mother and Boman forced her to undergo the sterilization procedure.

MR. PATTERSON: Yeah. Yeah. Yeah. Well, I always said that, so.

MS. MONTGOMERY: Yeah.

MR. PATTERSON: You know.

MS. MONTGOMERY: And then CJ goes, well, you're back on top, Mom. For the next four weeks I'm back on top.

Tr. 9:17-10:5 (Nov. 10, 2020).

November 26, 2020

Montgomery claims to her daughter Chelsea that did not know what she was doing when she committed her crime, as compared to her ex-spouse's recent criminal charge(s):

MS. MONTGOMERY: Think [your father is] going to make you feel guilty too?

CHELSEA: Yeah.

MS. MONTGOMERY: Don't feel guilty.

CHELSEA: I was like, no. I can't do that right now. Like I --

MS. MONTGOMERY: Don't feel guilty.

CHELSEA: I don't feel guilty. He did it himself. Like --

In the years following the sterilization procedure, Montgomery claimed that she had four more pregnancies. In 1994, while separated from Boman, Montgomery had an affair and claimed that she was pregnant. Montgomery and Boman later reconciled, and she ceased making the claim. She and Boman divorced in 1998. In 2000, before she and Kevin were married, she told him that she was pregnant and intended to have an abortion. Kevin gave her forty dollars, and the pregnancy was not mentioned again. In 2002, Montgomery told her friends and family that she was pregnant again. Although she said that she was receiving prenatal care from her physician, she would not allow Kevin to attend the appointments. Her physician testified that he had treated Montgomery for ankle pain and a cold, but he did not provide her any prenatal care, despite Montgomery's claims to the contrary. When the alleged due date passed, Montgomery told Kevin that the baby had died and that she had donated its body to science. As described above, Montgomery claimed in spring 2004 that she was pregnant and that she was due in December.

Throughout the fall of 2004, Montgomery was involved in a custody dispute with Boman. He knew that Montgomery was unable to become pregnant and that she was again claiming that she was pregnant. He and his wife sent emails to Montgomery, telling her that they planned to expose her deception and use it against her in the custody proceedings. **Montgomery said that she would prove them wrong.** On December 10, 2004, days before the kidnapping, Boman filed a motion for change of custody of the two minor children who lived with Montgomery.

United States v. Montgomery, 635 F.3d 1074, 1081 (8th Cir. 2011) (emphasis added).

MS. MONTGOMERY: Right. I tried never doing that to you guys. Right?

CHELSEA: And he's done it our whole life, so.

MS. MONTGOMERY: I know he has.

CHELSEA: (Inaudible).

MS. MONTGOMERY: I know. And I don't know how to fix that.

CHELSEA: I don't know.

MS. MONTGOMERY: I guess that's why I was so determined, you know, this -- this was not your fault and I would never blame you guys or make you feel responsible for it.

CHELSEA: I know. I don't feel that way with you. I feel different about what you did than what he did.

MS. MONTGOMERY: Yeah. Well.

CHELSEA: I don't blame you, but I definitely blame him.

MS. MONTGOMERY: Yeah. I don't know. I don't -- I didn't know what I was doing, you know.

CHELSEA: It's okay. I love you a lot.

Tr. 6:1-7:2 (Nov. 26, 2020).

December 2, 2020

Montgomery and her daughter Chelsea discuss Montgomery throwing a party for herself on the date originally designated for her execution, December 8, 2020:

MS. MONTGOMERY: I'm going to have a party on Tuesday, a party for myself.

CHELSEA: A party for what?

MS. MONTGOMERY: Because that was my original date.

MS. MONTGOMERY: I was just like, we'll just celebrate it because it didn't happen. Okay?

CHELSEA: Right.

Tr. 15:12-24 (Dec. 2, 2020).

December 11, 2020

Montgomery and her daughter Kayla discuss that the government will pay for her cremation in Terre Haute:

MS. MONTGOMERY: Okay. So, I've talked to Amy [Harwell] and them today and they said that the prison is wanting me to fill out the things for cremation.

MS. DAVIS: Uh-huh.

MS. MONTGOMERY: I guess they're going to pay for it.

MS. DAVIS: Oh, okay.

MS. MONTGOMERY: Okay. Just, you know, in case --

MS. DAVIS: Yeah.

MS. MONTGOMERY: Yeah. So, I was going to let Kevin know that at least that would be something he wouldn't have to worry about.

MS. DAVIS: Yeah.

MS. MONTGOMERY: Or you guys, you know.

MS. DAVIS: Right. That makes sense. But Amy and them would or the prison would?

MS. MONTGOMERY: The prison is going to.

MS. DAVIS: Okay. Okay.

MS. MONTGOMERY: Or the government, whoever. They're going to pay for it. At the funeral home in Terre Haute.

MS. DAVIS: Okay.

MS. MONTGOMERY: So. I think they should pay for it. I mean they're the ones doing it, they should pay for it.

MS. DAVIS: Uh-huh. You know, well, like hopefully it doesn't come to that.

MS. MONTGOMERY: Hopefully it doesn't come to that, you're right.

MS. DAVIS: And you'll just, you know, die of old age and then I'll pay for it then.

MS. MONTGOMERY: I would love – I'd love to die of old age.

MS. DAVIS: Yeah.

Tr. 2:20-3:25 (Dec. 11, 2020).

December 14, 2020

Montgomery and her sister Diane discuss developments in her legal case, providing consent for additional counsel to represent her, and how her online petition in support of clemency received more signatures than male, executed prisoners:

MS. MONTGOMERY: Yeah. So, I talked to (inaudible).

MS. MATTINGLY: Uh-huh. And?

MS. MONTGOMERY: And a private law firm in D.C. has taken on my case.

MS. MATTINGLY: Awesome.

MS. MONTGOMERY: With the people from Cornell, I believe is --

MS. MATTINGLY: Awesome.

MS. MONTGOMERY: I believe that's what it was because I had to agree to it today.

MS. MATTINGLY: Yeah.

MS. MONTGOMERY: So, that's good.

MS. MATTINGLY: Well, that's awesome. Yeah.

MS. MONTGOMERY: And Kayla told me there was over 125,000 signatures on the petition.

MS. MATTINGLY: I know. Isn't that exciting?

MS. MONTGOMERY: I know. I was like I don't think the guys got that much, did they?

MS. MATTINGLY: I don't think so.

MS. MONTGOMERY: Yeah.

Tr. 6:9-7:3 (Dec. 14, 2020).

Montgomery and her sister Diane recount the anniversary of her crime:

MS. MONTGOMERY: You know, this week is hard for me. I don't know if they told you, but it'll be 16 years this week. And so --

MS. MATTINGLY: Yeah, I know. You just know that God has forgiven you.

MS. MONTGOMERY: I know.

Tr. 10:24-11:4 (Dec. 14, 2020).

Montgomery and her sister Diane discuss cremation and her last meal:

MS. MONTGOMERY: Yeah. Because I had to fill out the cremation forms today.

MS. MATTINGLY: Oh, I'm sorry, honey. I know that was hard.

MS. MONTGOMERY: Yeah. Yeah. It was, you know, because then it's like, okay, now I'm really having to sign this thing.

MS. MATTINGLY: Yeah. Well --

MS. MONTGOMERY: But the chaplain is the one that brought it over and they've been really helpful for me, so.

MS. MATTINGLY: Well, good.

MS. MONTGOMERY: I was glad it was them rather than the warden or somebody like that.

MS. MATTINGLY: Yeah. Well, that was smart that they done that.

MS. MONTGOMERY: Yeah. Yeah. So, we got that all taken care of. I haven't decided my last meal yet because they're supposed to be giving me a list of restaurants.

Tr. 14:12-15:5 (Dec. 14, 2020).

Montgomery and her sister Diane discuss her calendar counting down until presidential inauguration day:

MS. MONTGOMERY: That's right. That's right. I'm going to just stay here till -- I made a calendar --

MS. MATTINGLY: Uh-huh.

MS. MONTGOMERY: -- so I can keep track of what day it was and what the weekends were and everything. And so I made my calendar to January 20th.

MS. MATTINGLY: Good for you.

MS. MONTGOMERY: So, that's how positive I'm being.

MS. MATTINGLY: Yeah.

MS. MONTGOMERY: You know, I'm like I'm not going to stop it at January 12th. That's not it. It's January 20th.

MS. MATTINGLY: Right. There you go. Good for you.

MS. MONTGOMERY: So.

MS. MATTINGLY: And then we get Biden in there and we're going to get him to reduce everything. I mean if we can't get --

MS. MONTGOMERY: Yeah. We're getting him --

MS. MATTINGLY: Let's just get another judge to give you a stay until Biden gets in. That's all that we need.

MS. MONTGOMERY: Yeah. Yep. Now, we have another law firm working for us.

MS. MATTINGLY: Yes.

MS. MONTGOMERY: And for --

MS. MATTINGLY: Oh, good.

MS. MONTGOMERY: I mean they're doing it for free.

MS. MATTINGLY: I'm so glad to hear that. Wow. That is so amazing.

MS. MONTGOMERY: Yeah, I know.

Tr. 15:18-16:19 (Dec. 14, 2020).

December 17, 2020

Montgomery acknowledges to her father that she "went off the path for a minute":

MR. PATTERSON: But know that your kids are more important. Okay? And those grandkids needs to know Grandma --

MS. MONTGOMERY: Right.

MR. PATTERSON: -- because Grandma is a nice person. Okay.

MS. MONTGOMERY: Right.

MR. PATTERSON: Yeah. Well, I believe that, you know. You have -- you are such a good person now. I mean you always were, you just went off the path for a minute.

MS. MONTGOMERY: Yeah, that's true.

Tr. 6:21-7:5 (Dec. 17, 2020).

Montgomery recounts to her father the anniversary of her incarceration and her crime:

MR. PATTERSON: You know. I'm sorry you're down today. I wish I could bring you up, but I can't think of any jokes.

MS. MONTGOMERY: I just -- today makes me 16 years of being locked up.

MR. PATTERSON: Yeah.

MS. MONTGOMERY: So, you know that yesterday was like⁴ --

MR. PATTERSON: Yeah.

MS. MONTGOMERY: Yeah.

MR. PATTERSON: Yeah. I told you what, you know you hit national news.

MS. MONTGOMERY: Yeah.

MR. PATTERSON: And I jokingly said, oh, that could be my daughter, never believing it was.

MS. MONTGOMERY: Yeah.

⁴ Montgomery committed her crime on December 16, 2004. *United States v. Montgomery*, 635 F.3d 1074, 1079 (8th Cir. 2011). She was arrested the next day, December 17. *Id.* at 1080.

Tr. 15:8-22 (Dec. 17, 2020).

January 2, 2021

Montgomery and her father discuss her current imprisonment in Texas and transfer plan:

MR. PATTERSON: You know, wow. You still in Texas?

MS. MONTGOMERY: No. Am I -- oh, am I still in Texas? Is that what you're asking? Yeah.

MR. PATTERSON: Yes. Okay.

MS. MONTGOMERY: Yeah. They haven't moved me yet.

MR. PATTERSON: Okay.

MS. MONTGOMERY: They probably won't till next week.

Tr. 3:7-13 (Jan. 2, 2021).

Montgomery and her father discuss the status of her legal appeal to the D.C. Circuit, the remaining claims in district court, and her plan for execution witnesses:

MS. MONTGOMERY: So, what happened was the government appealed to the circuit court and the circuit court ruled against the judge, who had originally ordered. However, we're going to

appeal to the whole circuit court. That's next.

MR. PATTERSON: Yeah.

MS. MONTGOMERY: Okay. We've got a clemency hearing on Wednesday, so.

MR. PATTERSON: Okay.

MS. MONTGOMERY: Yeah. So, we can --

MR. PATTERSON: Well, I'm praying. I'm praying. I know I got --

MS. MONTGOMERY: And the judge didn't rule on everything. The judge that gave us that ruling, he didn't rule on everything, so there's still more --

MR. PATTERSON: Yeah.

MS. MONTGOMERY: -- in here. I mean I was told it was going to be a roller coaster of a week, so just to hang in here.

MR. PATTERSON: Okay. As you long as you know that, hon.

MS. MONTGOMERY: Okay.

MR. PATTERSON: Okay. Okay. I've kind of figured that out a long time ago how it's going to be.

MS. MONTGOMERY: It's going to be up and down.

MR. PATTERSON: Yeah. Well, I'd had hoped that things would change way back and - - but, yes. I'm -- and I -- I was just --

MS. MONTGOMERY: And the court was just able to rule the way they did, but, you know.

MR. PATTERSON: I just was talking to Tom. And there's -- I don't know how -- I would love to try to be there for you.

MS. MONTGOMERY: Yeah. But you --

MR. PATTERSON: But I just --

MS. MONTGOMERY: But you wouldn't be allowed in.

MR. PATTERSON: I know. And that pisses me off too.

MS. MONTGOMERY: No. It's because I did it for everybody. I couldn't --

MR. PATTERSON: Yeah. But --

MS. MONTGOMERY: I couldn't sit and choose --

MR. PATTERSON: Okay.

MS. MONTGOMERY: -- one person over another.

MR. PATTERSON: Oh, I know, but you always choose me first.

MS. MONTGOMERY: Then I would have had a very upset husband. I would have had very upset kids and I was only going to get to choose like three.

MR. PATTERSON: Well, okay.

MS. MONTGOMERY: And there's five of you guys.

MR. PATTERSON: Me, Kevin and --

MS. MONTGOMERY: No.

MR. PATTERSON: Me, Kevin and Kayla.

MS. MONTGOMERY: No. No. That's not --

MR. PATTERSON: Me, Kevin and your sister.

MS. MONTGOMERY: No. How about --

MR. PATTERSON: Okay.

MS. MONTGOMERY: I would have had -- yeah. I forgot sister too. So, four kids, husband, you and Diane. That's seven people and I could only choose three. I just couldn't do that.

MR. PATTERSON: Well, I don't care about who the other two are.

MS. MONTGOMERY: Well, they did.

MR. PATTERSON: I'm teasing you.

MS. MONTGOMERY: So, just to be fair to everybody it was nobody.

Tr. 8:9-10:21 (Jan. 2, 2021).

Montgomery and her father discuss final calls with her children and her hope that the President will grant her clemency or a reprieve:

MR. PATTERSON: Yeah. Well, I don't know. I'm sure you heard it already, but Chelsea seems to be a little better.

MS. MONTGOMERY: Yes. Yes. And I will talk to her this coming week. I've got my days divided up for everybody.

MR. PATTERSON: Okay. Can I say something, and please don't take this wrong, okay?

MS. MONTGOMERY: Yeah.

MR. PATTERSON: I love hearing from you but those kids are more important.

MS. MONTGOMERY: They're all going to get a call, Dad. Don't worry.

MR. PATTERSON: Okay.

MS. MONTGOMERY: I'm calling CJ tomorrow.

MR. PATTERSON: They are --

MS. MONTGOMERY: Desiree on Monday.

MR. PATTERSON: They're all taking -- yeah. Okay. Just please do them before me. Okay?

MS. MONTGOMERY: Yes. They're all getting a call.

MR. PATTERSON: They are -- they're all hurting right now. Okay?

MS. MONTGOMERY: I know.

MR. PATTERSON: Okay. Well, you know, anyhow.

MS. MONTGOMERY: It's not over yet though, Dad.

MR. PATTERSON: I know. And I'm going to come down there and hug you after this is changed.

MS. MONTGOMERY: Oh, I need hugs after all this is done.

MR. PATTERSON: Oh, yeah. Well, I told you me and Mike had planned a trip down there.

MS. MONTGOMERY: Hopefully Trump will grant me clemency or a reprieve.

12:22:14:1 (Jan. 2, 2021).